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House of Representatives
Fifty-third Legislature
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House Engrossed
FILED
MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 96
HOUSE BILL 2373

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES; RELATING TO
CONFIDENTIAL TAX INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-2003, Arizona Revised Statutes, is amended to
3 read:

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may
9 execute a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer,
11 any person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.

14 3. A partnership may be disclosed to any partner of the
15 partnership. This exception does not include disclosure of confidential
16 information of a particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest that will be affected by the confidential
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest
25 that will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any
27 rights to confidentiality either in writing or on the record in any
28 administrative or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued
30 direct payment permits may be publicly disclosed.

31 B. Confidential information may be disclosed to:

32 1. Any employee of the department whose official duties involve tax
33 administration.

34 2. The office of the attorney general solely for its use in
35 preparation for, or in an investigation that may result in, any proceeding
36 involving tax administration before the department or any other agency or
37 board of this state, or before any grand jury or any state or federal
38 court.

39 3. The department of liquor licenses and control for its use in
40 determining whether a spirituous liquor licensee has paid all transaction
41 privilege taxes and affiliated excise taxes incurred as a result of the
42 sale of spirituous liquor, as defined in section 4-101, at the licensed
43 establishment and imposed on the licensed establishments by this state and
44 its political subdivisions.

1 4. Other state tax officials whose official duties require the
2 disclosure for proper tax administration purposes if the information is
3 sought in connection with an investigation or any other proceeding
4 conducted by the official. Any disclosure is limited to information of a
5 taxpayer who is being investigated or who is a party to a proceeding
6 conducted by the official.

7 5. The following agencies, officials and organizations, if they
8 grant substantially similar privileges to the department for the type of
9 information being sought, pursuant to statute and a written agreement
10 between the department and the foreign country, agency, state, Indian
11 tribe or organization:

12 (a) The United States internal revenue service, alcohol and tobacco
13 tax and trade bureau of the United States treasury, United States bureau
14 of alcohol, tobacco, firearms and explosives of the United States
15 department of justice, United States drug enforcement agency and federal
16 bureau of investigation.

17 (b) A state tax official of another state.

18 (c) An organization of states, federation of tax administrators or
19 multistate tax commission that operates an information exchange for tax
20 administration purposes.

21 (d) An agency, official or organization of a foreign country with
22 responsibilities that are comparable to those listed in subdivision (a),
23 (b) or (c) of this paragraph.

24 (e) An agency, official or organization of an Indian tribal
25 government with responsibilities comparable to the responsibilities of the
26 agencies, officials or organizations identified in subdivision (a), (b) or
27 (c) of this paragraph.

28 6. The auditor general, in connection with any audit of the
29 department subject to the restrictions in section 42-2002, subsection D.

30 7. Any person to the extent necessary for effective tax
31 administration in connection with:

32 (a) The processing, storage, transmission, destruction and
33 reproduction of the information.

34 (b) The programming, maintenance, repair, testing and procurement
35 of equipment for purposes of tax administration.

36 (c) The collection of the taxpayer's civil liability.

37 8. The office of administrative hearings relating to taxes
38 administered by the department pursuant to section 42-1101, but the
39 department shall not disclose any confidential information:

40 (a) Regarding income tax or withholding tax.

41 (b) On any tax issue relating to information associated with the
42 reporting of income tax or withholding tax.

43 9. The United States treasury inspector general for tax
44 administration for the purpose of reporting a violation of internal

1 revenue code section 7213A (26 United States Code section 7213A),
2 unauthorized inspection of returns or return information.

3 10. The financial management service of the United States treasury
4 department for use in the treasury offset program.

5 11. The United States treasury department or its authorized agent
6 for use in the state income tax levy program and in the electronic federal
7 tax payment system.

8 12. The Arizona commerce authority for its use in:

9 (a) Qualifying renewable energy operations for the tax incentives
10 under sections 42-12006, 43-1083.01 and 43-1164.01.

11 (b) Qualifying businesses with a qualified facility for income tax
12 credits under sections 43-1083.03 and 43-1164.04.

13 (c) Fulfilling its annual reporting responsibility pursuant to
14 section 41-1511, subsections U and V and section 41-1512, subsections U
15 and V.

16 (d) Certifying computer data centers for tax relief under section
17 41-1519.

18 13. A prosecutor for purposes of section 32-1164, subsection C.

19 14. The state fire marshal for use in determining compliance with
20 and enforcing title 37, chapter 9, article 5.

21 15. The department of transportation for its use in administering
22 taxes, surcharges and penalties prescribed by title 28.

23 16. The Arizona health care cost containment system administration
24 for its use in administering nursing facility provider assessments.

25 C. Confidential information may be disclosed in any state or
26 federal judicial or administrative proceeding pertaining to tax
27 administration pursuant to the following conditions:

28 1. One or more of the following circumstances must apply:

29 (a) The taxpayer is a party to the proceeding.

30 (b) The proceeding arose out of, or in connection with, determining
31 the taxpayer's civil or criminal liability, or the collection of the
32 taxpayer's civil liability, with respect to any tax imposed under this
33 title or title 43.

34 (c) The treatment of an item reflected on the taxpayer's return is
35 directly related to the resolution of an issue in the proceeding.

36 (d) Return information directly relates to a transactional
37 relationship between a person who is a party to the proceeding and the
38 taxpayer and directly affects the resolution of an issue in the
39 proceeding.

40 2. Confidential information may not be disclosed under this
41 subsection if the disclosure is prohibited by section 42-2002, subsection
42 C or D.

43 D. Identity information may be disclosed for purposes of notifying
44 persons entitled to tax refunds if the department is unable to locate the
45 persons after reasonable effort.

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a tobacco
4 product distributor's license and number or a withholding license and
5 number or disclose the information to be posted on the department's
6 website or otherwise publicly accessible pursuant to section 42-1124,
7 subsection F and section 42-3401.

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that
11 disclosure is necessary to obtain information that is not otherwise
12 reasonably available. These official duties include the correct
13 determination of and liability for tax, the amount to be collected or the
14 enforcement of other state tax revenue laws.

15 G. If an organization is exempt from this state's income tax as
16 provided in section 43-1201 for any taxable year, the name and address of
17 the organization and the application filed by the organization on which
18 the department made its determination for exemption together with any
19 papers submitted in support of the application and any letter or document
20 issued by the department concerning the application are open to public
21 inspection.

22 H. Confidential information relating to transaction privilege tax,
23 use tax, severance tax, jet fuel excise and use tax and any other tax
24 collected by the department on behalf of any jurisdiction may be disclosed
25 to any county, city or town tax official if the information relates to a
26 taxpayer who is or may be taxable by a county, city or town or who may be
27 subject to audit by the department pursuant to section 42-6002. Any
28 taxpayer information released by the department to the county, city or
29 town:

- 30 1. May only be used for internal purposes, including audits.
31 2. May not be disclosed to the public in any manner that does not
32 comply with confidentiality standards established by the department. The
33 county, city or town shall agree in writing with the department that any
34 release of confidential information that violates the confidentiality
35 standards adopted by the department will result in the immediate
36 suspension of any rights of the county, city or town to receive taxpayer
37 information under this subsection.

38 I. The department may disclose statistical information gathered
39 from confidential information if it does not disclose confidential
40 information attributable to any one taxpayer. The department may disclose
41 statistical information gathered from confidential information, even if it
42 discloses confidential information attributable to a taxpayer, to:

- 43 1. The state treasurer in order to comply with the requirements of
44 section 42-5029, subsection A, paragraph 3.

1 2. The joint legislative income tax credit review committee, the
2 joint legislative budget committee staff and the legislative staff in
3 order to comply with the requirements of section 43-221.

4 J. The department may disclose the aggregate amounts of any tax
5 credit, tax deduction or tax exemption enacted after January 1, 1994.
6 Information subject to disclosure under this subsection shall not be
7 disclosed if a taxpayer demonstrates to the department that such
8 information would give an unfair advantage to competitors.

9 K. Except as provided in section 42-2002, subsection C,
10 confidential information, described in section 42-2001, paragraph 1,
11 subdivision (a), item (ii), may be disclosed to law enforcement agencies
12 for law enforcement purposes.

13 L. The department may provide transaction privilege tax license
14 information to property tax officials in a county for the purpose of
15 identification and verification of the tax status of commercial property.

16 M. The department may provide transaction privilege tax, luxury
17 tax, use tax, property tax and severance tax information to the
18 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

19 N. Except as provided in section 42-2002, subsection D, a court may
20 order the department to disclose confidential information pertaining to a
21 party to an action. An order shall be made only on a showing of good
22 cause and that the party seeking the information has made demand on the
23 taxpayer for the information.

24 O. This section does not prohibit the disclosure by the department
25 of any information or documents submitted to the department by a bingo
26 licensee. Before disclosing the information the department shall obtain
27 the name and address of the person requesting the information.

28 P. If the department is required or permitted to disclose
29 confidential information, it may charge the person or agency requesting
30 the information for the reasonable cost of its services.

31 Q. Except as provided in section 42-2002, subsection D, the
32 department of revenue shall release confidential information as requested
33 by the department of economic security pursuant to section 42-1122 or
34 46-291. Information disclosed under this subsection is limited to the
35 same type of information that the United States internal revenue service
36 is authorized to disclose under section 6103(l)(6) of the internal revenue
37 code.

38 R. Except as provided in section 42-2002, subsection D, the
39 department of revenue shall release confidential information as requested
40 by the courts and clerks of the court pursuant to section 42-1122.

41 S. To comply with the requirements of section 42-5031, the
42 department may disclose to the state treasurer, to the county stadium
43 district board of directors and to any city or town tax official that is
44 part of the county stadium district confidential information attributable

1 to a taxpayer's business activity conducted in the county stadium
2 district.

3 T. The department shall release to the attorney general
4 confidential information as requested by the attorney general for purposes
5 of determining compliance with or enforcing any of the following:

6 1. Any public health control law relating to tobacco sales as
7 provided under title 36, chapter 6, article 14.

8 2. Any law relating to reduced cigarette ignition propensity
9 standards as provided under title 37, chapter 9, article 5.

10 3. Sections 44-7101 and 44-7111, the master settlement agreement
11 referred to in those sections and all agreements regarding disputes under
12 the master settlement agreement.

13 U. For proceedings before the department, the office of
14 administrative hearings, the board of tax appeals or any state or federal
15 court involving penalties that were assessed against a return preparer, an
16 electronic return preparer or a payroll service company pursuant to
17 section 42-1103.02, 42-1125.01 or 43-419, confidential information may be
18 disclosed only before the judge or administrative law judge adjudicating
19 the proceeding, the parties to the proceeding and the parties'
20 representatives in the proceeding prior to its introduction into evidence
21 in the proceeding. The confidential information may be introduced as
22 evidence in the proceeding only if the taxpayer's name, the names of any
23 dependents listed on the return, all social security numbers, the
24 taxpayer's address, the taxpayer's signature and any attachments
25 containing any of the foregoing information are redacted and if either:

26 1. The treatment of an item reflected on such return is or may be
27 related to the resolution of an issue in the proceeding.

28 2. Such a return or the return information relates or may relate to
29 a transactional relationship between a person who is a party to the
30 proceeding and the taxpayer that directly affects the resolution of an
31 issue in the proceeding.

32 3. The method of payment of the taxpayer's withholding tax
33 liability or the method of filing the taxpayer's withholding tax return is
34 an issue for the period.

35 V. The department and attorney general may share the information
36 specified in subsection T of this section with any of the following:

37 1. Federal, state or local agencies LOCATED IN THIS STATE FOR THE
38 PURPOSES OF ENFORCEMENT OF THE STATUTES OR AGREEMENTS SPECIFIED IN
39 SUBSECTION T OF THIS SECTION OR for the purposes of enforcement of
40 corresponding laws of other states.

41 2. INDIAN TRIBES LOCATED IN THIS STATE FOR THE PURPOSES OF
42 ENFORCEMENT OF THE STATUTES OR AGREEMENTS SPECIFIED IN SUBSECTION T OF
43 THIS SECTION.

44 ~~2.~~ 3. A court, arbitrator, data clearinghouse or similar entity
45 for the purpose of assessing compliance with or making calculations

1 required by the master settlement agreement or agreements regarding
2 disputes under the master settlement agreement, and with counsel for the
3 parties or expert witnesses in any such proceeding, if the information
4 otherwise remains confidential.

5 W. The department may provide the name and address of qualifying
6 hospitals and qualifying health care organizations, as defined in section
7 42-5001, to a business classified and reporting transaction privilege tax
8 under the utilities classification.

9 X. The department may disclose to an official of any city, town or
10 county in a current agreement or considering a prospective agreement with
11 the department as described in section 42-5032.02, subsection F any
12 information relating to amounts subject to distribution required by
13 section 42-5032.02. Information disclosed by the department under this
14 subsection:

15 1. May only be used by the city, town or county for internal
16 purposes.

17 2. May not be disclosed to the public in any manner that does not
18 comply with confidentiality standards established by the department. The
19 city, town or county must agree with the department in writing that any
20 release of confidential information that violates the confidentiality
21 standards will result in the immediate suspension of any rights of the
22 city, town or county to receive information under this subsection.

23 Y. Notwithstanding any other provision of this section, the
24 department may not disclose information provided by an online lodging
25 marketplace, as defined in section 42-5076, without the written consent of
26 the online lodging marketplace, and the information may be disclosed only
27 pursuant to subsection A, paragraphs 1 through 6, subsection B, paragraphs
28 1, 2, 7 and 8 and subsections C and D of this section. Such information:

29 1. Is not subject to disclosure pursuant to title 39, relating to
30 public records.

31 2. May not be disclosed to any agency of this state or of any
32 county, city, town or other political subdivision of this state.

APPROVED BY THE GOVERNOR MARCH 29, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2017.

Passed the House February 21, 2017

Passed the Senate March 27, 2017

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

☐ Pro Tempore

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

28 day of March, 2017

at 11:10 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 29 day of

March, 2017

at 2:31 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29 day of March, 2017

at 4:59 o'clock P. M.

[Signature]
Secretary of State

H.B. 2373